

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
BUREAU OF ENVIRONMENTAL REMEDIATION
ASSESSMENT AND RESTORATION SECTION**

REGULATORY IMPACT STATEMENT

PROPOSED AMENDMENTS:

K.A.R. 28-68-1

K.A.R. 28-68-2

K.A.R. 28-68-3

K.A.R. 28-68-6

June 29, 2000

EXECUTIVE SUMMARY OF PROPOSED AMENDMENT

K.A.R. 28-68-1, K.A.R. 28-68-2, K.A.R. 28-68-3, and K.A.R. 28-68-6 are proposed amendments to regulations adopted in response to K.S.A. 65-34, 141-155, otherwise known as the Dry Cleaner Environmental Response Act. This Act sets performance standards for dry-cleaning operations and establishes a trust fund to pay for corrective action at contaminated dry-cleaning sites.

Environmental Benefit Statement

1. Need for proposed amendments and environmental benefit likely to accrue.

a. Need

K.S.A. 65-34, 141-155 established the Kansas Dry Cleaner Environmental Response Act (DERA). Kansas Senate Bill 132 amended K.S.A. 1998 Supp. 65-34, 144-146, 65-34, 148, 65-34, 150-153. These regulations are being amended in response to changes in the DERA. The proposed regulations will modify the performance standards for the dry-cleaning community and enhance the Dry Cleaning Facility Release Trust Fund (DFRTF) that was established to perform environmental assessment and cleanup of contaminated dry-cleaning sites. These regulations are not mandated by federal law.

b. Environmental benefit

There are several environmental benefits to be gained from the proposed amendments. Recent changes to DERA will enhance with moneys from a \$100 registration fee, an increase of the DFRTF deductible from \$2,500 to \$5,000 and an increase in the environmental surcharge from 2% to 2 1/2 %. The monetary increase enables the DFRTF to be liable for the payment of corrective action costs up to \$5,000,000. The environmental benefit of any corrective action will be the reduction of current and possible future threats to human health and the environment

The inclusion of a closed, direct-coupled delivery system for solvents adds further protection to the environment from releases of dry-cleaning solvents. This performance standard is intended to reduce the number and severity of any future releases of dry-cleaning solvent to the environment.

A definition for "applicant" was added to encourage compliance of DERA. The environmental benefit is as follows. Any person or entity that has been impacted by contamination from a dry-cleaning facility can apply to the DFRTF. This encourages early acknowledgment of contamination and the implementation of any necessary corrective action.

2) When applicable, a summary of the research or data indicating the level of risk to the public health or the environment being removed or controlled by the proposed regulations or amendments.

Proposed amendment K.A.R. 28-68-3 (f) (1) (A) requires dry-cleaning facilities to use closed direct-coupled delivery systems for dry-cleaning solvents as specified in the original statutes. Amendments K.A.R. 28-68-6 and K.A.R. 28-68-2 (c) increase the monetary contribution to the dry-cleaner facility release trust fund (DFRTF) and as a result the liability for corrective action costs has been raised to a maximum of \$5,000,000. K.A.R. 28-68-2 (d) was designed to encourage dry cleaners to register by requiring dry-cleaning facilities post the registration number in the public area of the dry-cleaning facility.

Dry-cleaning wastewater is contaminated with dry-cleaning solvents. Dry-cleaning solvents are defined as any and all nonaqueous solvents used or to be used in the cleaning of garments and other fabrics at a dry-cleaning facility. Dry-cleaning solvents include, but are not limited to, perchloroethylene (otherwise known as perc, tetrachloroethylene, or PCE), petroleum-based solvents (Stoddard solvent, mineral spirits, or petroleum distillate), and the degradation products of the solvents.

Several groundwater aquifers in Kansas have been contaminated by improper disposal of dry-cleaning wastewater at dry-cleaning facilities. Municipal drinking water supplies have been threatened or impacted by dry-cleaning contamination at the following cities: Salina, Hays, Garden City, Downs, Concordia and Hutchinson. Data from these sites indicate that improper disposal of dry-cleaning wastewater was, if not solely responsible, a contributor for the contamination in the aquifer.

The proposed amendments aid in both the prevention and clean-up of contaminated dry-cleaning sites. Registration of dry-cleaning facilities is a means of keeping track of the use of dry-cleaning solvents as well as providing an avenue to keep dry cleaners aware of Kansas statutes and regulations for the operation of dry-cleaning facilities. A closed, direct coupled delivery system aids in the prevention of solvent releases to the environment. Corrective action at contaminated sites can be costly. Moneys collected from the registration fee and the increased deductible contribute to the DFRTF. The liability for corrective action costs at contaminated sites has been raised from \$2,000,000 to \$5,000,000.

3) If specific contaminants are to be controlled by the proposed regulation or amendment, a description indicating the level at which the contaminants are considered harmful according to current available research.

Perchloroethylene (tetrachloroethylene, perc or PCE) is a clear, highly chlorinated, nonflammable liquid that evaporates at room temperature. Perchloroethylene is manmade and has a characteristic sweet odor. This solvent is slightly soluble in water and denser (heavier) than water. Degradation in water is very slow.

The Maximum Contaminant Level (MCL) for PCE in drinking water is 5 µg/L. Perchloroethylene from dry-cleaning facilities has impacted or threatened drinking water supplies in Salina, Hays, Downs, Hutchinson, Concordia and Garden City.

A person may be exposed to PCE through dermal absorption (skin contact with PCE), ingestion (by drinking water contaminated with PCE) or inhalation (breathing PCE). Single exposures to high concentrations of PCE in air (particularly in closed, poorly ventilated areas) can cause dizziness, headache, sleepiness, confusion, nausea, difficulty in speaking and walking, and possibly unconsciousness and death. Skin irritation may result from repeated or extended contact with the chemical. Perchloroethylene has been classified as a possible human carcinogen (Toxicological Profile for Tetrachloroethylene, Update, April 1993, U.S. Department of Health and Human Services, Public Health Service).

Economic Impact Statement

1) Are the proposed regulations or amendments mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

These regulations are not mandated by federal law.

2) Do the proposed regulations or amendments exceed the requirements of applicable federal law?

The proposed amendment modifies existing performance standards for dry-cleaning facilities and enhances the DFRTF established for the environmental assessment and cleanup of contaminated dry-cleaning facilities. Currently, federal regulations similar to the proposed regulation amendment do not exist.

3) Description of costs to agencies, to the general public and to persons who are affected by, or are subject to, the regulations:

(a) Capital and annual costs of compliance with the proposed regulations or amendments and the persons who will bear those costs:

The capital and annual costs of compliance with the proposed regulations are minimal because the agencies have been administering the provisions of DERA since it became effective in 1995. Persons who will bear the costs associated with the regulation changes have already been impacted by the initial costs imposed by DERA. The proposed regulations will affect costs in the following manner:

- 1) Proposed amendment K.A.R. 28-68-2 (c) will require any owner/operator of a dry-cleaning facility to submit a registration fee of \$100 with their annual registration.
- 2) Dry cleaners who apply to the DFRTF will pay a deductible of \$5,000 to the fund.

3) Recent changes to DERA increased the environmental surcharge on dry-cleaning items to 2.5% from 2%.

4) The tax imposed on dry-cleaning solvents was also increased 0.5% this year per the pre-determined schedule in the original act.

(b) Initial and annual costs of implementing and enforcing the proposed regulations or amendments, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs.

Initial and annual costs of implementing and enforcing the proposed regulations should be minimal because additional staff will not be required.

c) Costs which would likely accrue if the proposed regulations or amendments are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the regulations.

The amendments to the regulations are state mandated. Failure to adopt these regulations may mean that current statutes are not reflected in the regulations. Recent changes have been incorporated into DERA to increase funding for the DFRTF. Failure to adopt the changes may increase the monetary liability of owner/operators of dry-cleaning facilities due to lack of DFRTF funding.

d) A detailed statement of the data and methodology used in estimating the costs used in the statement.

The proposed regulations do not require any significant increase in costs to persons affected by the changes or to governmental agencies.

e) Description of any less costly or less intrusive methods that were considered by the agency and why such methods were rejected in favor of the proposed regulations.

The changes are not considered costly or intrusive to the agency. The changes are basically administrative changes with procedures that can readily be executed by existing staff. The proposed changes were mandated by K.S.A. 65-34, 141-155.

f) Consultation with League of Kansas Municipalities, Kansas Association of Counties, and Kansas Association of School Boards.

The department does not anticipate that the proposed amendment to existing regulations will have any fiscal impact on the constituencies of these three organizations. Nevertheless, the Regulatory Impact Statement and the proposed amendment were sent to each of these organizations.

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